

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6207 OF 2005

Rajkumar Suresh Koli ..Petitioner.

Vs.

State of Maharashtra & Ors. ..Respondents.

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Mr.R.K.Mendadkar with Ms.Helen Mandlik for the
Petitioner.

Mr.R.D.Rane, Government Pleader for Respondent
Nos.1 and 3.

Ms.Deepa Chavan i/b M/s.Little & Co. for
Respondent No.2.

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CORAM : F.I.REBELLO, J. AND

DR.D.Y.CHANDRACHUD, J.

21st February, 2006.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner claimed to belong to Mahadeo
Koli, S.C. He was admitted against a seat reserved

for S.C. The counsel states that the certificate till date has not been forwarded to the relevant committee to decide the tribe status of the Petitioner. The Petitioner in the meantime has appeared and completed two years course and has now approached this Court, praying that the Respondent be directed to declare the result of the Petitioner of the Second and final year D.Ed. Course examination held in November 2004 and also to release his marksheet and other documents. A reply has been filed on behalf of the Maharashtra State Examination Council for Educational Research & Training by Mr.V.P.Kanawade with enclosure which includes the undertaking given by the Petitioner. In the undertaking the Petitioner has clearly set out that he will claim no benefits if his tribe status/ caste status was not verified by the relevant committee.

3. Time and again we have come across a large number of matters of students seeking admission without having the caste validity certificate. The Government has for some professional courses framed rules which require the candidate to produce the certificate within 12 weeks. This is so, in case

of Medical and Engineering students. It is the case of the Petitioner that there is no such requirement as far as D.Ed. course is concerned. This Court, considering the fact that many a time students who seek admission coming from the backward class whose parents may not have taken caste validity certificate, has taken a view that the requirement is directory so that genuine students are not denied their rightful claim. At the same time, reading such a provision as directory should not give undue benefit to those students who seek admission against a reserved seat but who in fact do not belong to a reserved category, but have obtained admission on a fraudulent certificate.

4. Learned counsel points out to us judgments of this Court which have directed declaration of the results where the students have completed the D.Ed. course and where the caste validity certificate was not obtained.

5. In none of those judgments have the Division Benches considered the kind of undertaking given by the candidate as has been given in the

instant case. Even otherwise whether it be in **Kumari Madhuri Patil v. Addl. Commissioner, Tribal Development** (1994) 6 SCC 241 or **R.Vishwanatha Pillai v. State of Kerala** (2004) 2 SCC 105 or in **State of Maharashtra v. Milind** (2001(1) SCC 4), the Apex Court has not taken a view, as a rule, that every student who gets the admission and completes his course has a right to get the result declared even if the certificate is found to be fraudulent. On the facts of those cases, the Apex Court has taken a view that no purpose would be served in cancelling the degrees obtained by the candidates who have already passed the examination.

6. The constitutional scheme for protection is to see to it that those who otherwise were not entitled or would not be admitted in professional course have a chance to secure admission as a part of social engineering. That object which underlies the constitutional philosophy cannot be defeated by persons who do not belong to reserved category and who may on the strength of some fraudulent certificate as belonging to a reserved category and secure admission, to be allowed to take the benefit

of the constitutional provision merely because Tribunals and Courts, on account of sheer docket of cases are not in a position to dispose of the matters before the course is completed. The Apex Court in the judgments aforesaid has clearly held that a person who takes a certificate based on fraud is not entitled to any protection.

7. We are clearly therefore of the view that where a candidate gives an undertaking claiming no benefit, if his caste certificate is rejected, cannot get a benefit of getting his results declared.

8. In these circumstances, the Respondent State to consider taking from every candidate in every professional field whether it be education or employment or otherwise where there are reservations, an undertaking that the candidate will claim no benefit including declaration of results if his claim is not validated by the relevant committee set up for that purpose.

9. A copy of this judgment be forwarded to the Chief Secretary, State of Maharashtra for further

action.

10. In the light of the above, we find no merit in this Petition. At any rate, this would not be a case to exercise our extra-ordinary jurisdiction. It would be open to the Petitioner to pursue his caste claim before the relevant committee and if that committee upholds the Petitioner's caste validity, then it is for the Respondent on production of the caste validity certificate to declare the result of the Petitioner.

11. With the above observations, rule discharged. The Petition is disposed of. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)